

KEVIN G. CLARKSON  
ATTORNEY GENERAL

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Attorney for Defendant Justin S. Hilario

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

JOEL MUMEY,	)
	)
Plaintiff,	)
	)
v.	)
	) Case No.: 3:20-cv-00172-TMB
STATE OF ALASKA, DEPT OF LAW	)
and JUSTIN S. HILARIO,	)
	) <b>ANSWER OF TROOPER JUSTIN S.</b>
Defendants.	) <b>HILARIO</b>

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Answering Defendant, Alaska State Trooper Justin Hilario, by and through the Office of the Attorney General, answers the complaint in this action as follows:

**PARTIES**

1. Upon information and belief, admitted.
2. The allegations contained in this paragraph state legal conclusions to which no response is required.
3. Admitted.

4. The allegations contained in this paragraph state legal conclusions to which no response is required.

## **JURISDICTION AND VENUE**

5. This Court has jurisdiction pursuant to 28 U.S.C § 1331 and 38 U.S.C. § 1441.

6. Admitted.

## **GENERAL ALLEGATIONS**

7. Denied.

8. The allegations contained in this paragraph state legal conclusions to which no response is required. To the extent that a response is required, the allegations are denied.

9. Admitted.

10. The allegations contained in this paragraph state legal conclusions to which no response is required.

11. The allegations contained in this paragraph state legal conclusions to which no response is required.

12. The allegations contained in this paragraph state legal conclusions to which no response is required.

13. The allegations contained in this paragraph state legal conclusions to which no response is required.

14. Denied.

15. The allegations contained in this paragraph state legal conclusions to which no response is required.

16. The allegations contained in this paragraph state legal conclusions to which no response is required.

17. The allegations contained in this paragraph state legal conclusions to which no response is required.

18. Denied.

19. Denied.

20. Denied as to answering defendant.

21. Denied as to answering defendant.

22. Denied as to answering defendant.

23. Denied.

24. Denied as to answering defendant.

25. Denied as to answering defendant.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Denied as to answering defendant.

31. Denied.

32. Denied as to answering defendant.

## **AFFIRMATIVE AND OTHER DEFENSES**

1. Some or all of the plaintiff's claims are barred by AS 09.50.250, AS 09.50.253, AS 18.60.125, discretionary function immunity, qualified immunity, absolute immunity, and/or any other applicable doctrines of immunity.
2. Plaintiff has failed to state a claim for which relief can be granted.
3. Plaintiff may have failed to mitigate the alleged damages.
4. Plaintiff's alleged injuries were preexisting and/or were not proximately caused by the alleged actions of omissions of AST Hilario and/or were not caused to the extent claimed by plaintiff.
5. Plaintiff's damages must be limited and/or apportioned pursuant to AS 09.17.010, AS 09.17.020, AS 09.17.060, AS 09.17.070, AS 09.17.080, and AS 09.50.280.
6. AST Hilario reserves the right to assert additional defenses and affirmative defenses as this matter proceeds.

## **PRAAYER FOR RELIEF**

WHEREFORE, AST Hilario seeks the following relief:

1. For judgement in favor of answering defendant;
2. That plaintiff's complaint be dismissed in its entirety with prejudice;
3. That the plaintiff's prayer for relief be denied;
4. Apportionment of fault and damaged to plaintiff and others for whom answering defendant is not liable or responsible;

5. That defendant be awarded costs and attorney's fees in the action; and
6. Other and further relief as may be deemed just and equitable under the circumstances.

DATED: July 23, 2020.

KEVIN G. CLARKSON  
ATTORNEY GENERAL

By: /s/Mark Cucci  
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Certificate of Service

I certify that on July 23, 2020 the foregoing **Answer of Trooper Justin Hilario** was served electronically on:

Jeffrey J. Barber  
Barber and Associates, LLC  
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/s/Mark Cucci  
Mark Cucci, Assistant Attorney General